

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kara Hughes	Team: Team # 4	CCRB Case #: 200300556	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 09/29/2001 2:25 AM	Location of Incident: 32-10 102nd St, Queens	Precinct: 115	18 Mo. SOL 3/29/2003	EO SOL 3/29/2003	
Date/Time CV Reported Wed, 01/22/2003 2:53 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/22/2003 2:53 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Sean Downes	29467	918975	115 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Kevin Roske	01863	892612	115 PCT
2. POM Richard Pimentel	23758	898297	115 PCT
3. POM Timothy Erwig	29677	919006	115 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Sean Downes	Force: PO Sean Downes used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

### Synopsis

On September 29<sup>th</sup>, 2001 § 87(2)(b) fled police pursuit after he was observed inside of a stolen vehicle; three 115<sup>th</sup> Precinct officers chased § 87(2)(b) who sustained injuries as a result of his attempting to scale a fence. § 87(2)(b) alleged that his arresting officer, PO Sean Downes, caused scratches on his face by “dragging” him on the ground (*allegation a*).

§ 87(2)(b)'s mother, § 87(2)(b) filed a complaint on behalf of her son at the 115<sup>th</sup> Precinct. At this time, § 87(2)(b) asserted that PO Downes bit her son and dragged him along the ground, causing injury. Sgt. Donald Wingate of IAB's Group 54 was assigned to investigate the complaint. When interviewed, § 87(2)(b) did not assert PO Downes had bitten him; as such, only the “dragging” physical force allegation is being pled. In a report dated on December 15<sup>th</sup>, 2002, Sgt. Wingate found that § 87(2)(b)'s allegations to be “unfounded.” The complaint was then referred to the CCRB (for your information) where it was received on January 22<sup>nd</sup>, 2003, nearly sixteen months after the date of incident. The case was submitted to a (panel of the) CCRB Board of Directors headed by Mr. Hector Gonzalez, Chairman; § 87(2)(g)

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### Summary of Complaint

§ 87(2)(b) filed a complaint on behalf of her son § 87(2)(b) who was § 87(2)(b) at the time of his September 2001 arrest, alleging that PO Downes used excessive physical force by both “dragging” and “biting” her son. When § 87(2)(b) was interviewed by Group 54's Sgt. Donald Wingate, he did not assert that PO Downes bit him and, as such, § 87(2)(b)'s belief that PO Downes bit her son is not being pled as an allegation.

Sgt. Wingate reports that on September 29<sup>th</sup>, 2001 § 87(2)(b) acknowledged that he was attempting to flee police pursuit when he ran into the backyard of 32-10 102<sup>nd</sup> Street in Queens. At this time, § 87(2)(b) stated that PO Downes “dragged along the ground” such that his face received injuries. § 87(2)(b) recalled that there was a wooden fence with barbed wire in the backyard, however he denied ever having “touched the fence or the barbed wire.” § 87(2)(b) was arrested by PO Downes for § 87(2)(b)

§ 87(2)(b). § 87(2)(b) identified PO Downes in a photo array session, however “refused to elaborate or confirm his previous allegations against PO Downes.”

### Results of Investigation

During his investigation, Sgt. Wingate conducted three separate canvasses, none of which yielded any witnesses to § 87(2)(b)'s interaction with officers on September 29<sup>th</sup>, 2001. A total of four officers were interviewed. PO Downes was interviewed as the subject officer of § 87(2)(b)'s force allegation and Sgt. Kevin Roske, PO Richard Pimentel and PO Timothy Erwig were interviewed as witnesses to the incident.

#### *PO Sean Downes*

PO Sean Downes, who was acting as RMP operator, testified that he remained inside of the vehicle while his partners chased § 87(2)(b). After PO Downes had parked the RMP, he walked to the backyard of 10-32 102<sup>nd</sup> Street and found that § 87(2)(b) was in handcuffs and “under control.” PO Downes then frisked and searched § 87(2)(b).

#### *Witness officers*

Sgt. Wingate found that the statements provided by the witness officers were consistent; the officers all stated that PO Downes remained inside of an RMP while they chased § 87(2)(b) into the backyard. In the backyard, the three officers found § 87(2)(b) as he was “trying to scale a barbed wire fence.” When the officers “pulled him down because he refused to let go of the fence,” § 87(2)(b) suffered injury from the barbed wire. Sgt. Roske and PO Erwig also suffered scratches from the wire, but did not go line-of-duty as a result.

#### *Medical records*

§ 87(2)(b) received medical attention at § 87(2)(b) on § 87(2)(b). The EMT who transported § 87(2)(b) § 87(2)(b), was interviewed regarding § 87(2)(b)'s appearance. EMT § 87(2)(b) described that § 87(2)(b)'s scratches made it look as if that he “had either gone through a shredder or had been attacked by a dog.” EMT § 87(2)(b) also stated that § 87(2)(b) never alleged that officers had dragged him along the ground (*enc. 6a-k*).

Senior Medical Examiner Dr. James Gill reviewed § 87(2)(b)'s medical records. Dr. Gill determined that § 87(2)(b)'s earlobe laceration was “more consistent with barbed wire contact than with dragging.” Likewise, the abrasions on § 87(2)(b)'s face and body were “more consistent with barbed wire contact than with dragging” (*enc. 6a-k*).

#### *Disposition of § 87(2)(b)'s criminal charges*

In § 87(2)(b), § 87(2)(b) pled guilty to resisting arrest and served a six-month jail term as a result (*enc. 8a-d*).

### **Conclusions and Recommendations**

The CCRB received § 87(2)(b)'s complaint nearly sixteen months after the date of incident. A thorough investigation report composed by IAB's Sgt. Wingate was submitted along with the referral.

§ 87(2)(g)

Based upon the interviews conducted by Sgt. Wingate, PO Downes was not in the backyard of 10-32 102<sup>nd</sup> Street at the time when § 87(2)(b) suffered injury. § 87(2)(g)

When PO Downes arrived to the backyard, § 87(2)(b) was already in handcuffs and was reportedly “calm”; PO Downes then frisked and searched the prisoner. § 87(2)(b) identified PO Downes during a photo array session but then refused to detail his specific interaction with the officer. § 87(2)(g)

Medical Examiner Dr. James Gill testified that the nature of § 87(2)(b)'s injuries are “more consistent” with his having been in contact with barbed wire than with injuries associated with having been “dragged.” § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: